

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

KYLEE M. PAUGH

Plaintiff,

v.

LOCKHEED MARTIN CORPORATION,

Defendant.

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CIVIL ACTION NO. 3:20-cv-154

**NOTICE OF REMOVAL**

Lockheed Martin (“Defendant”) notifies the Court, pursuant to 28 U.S.C. §§ 1441 and 1446(a), of the removal of the action styled *Kylee M. Paugh v. Lockheed Martin Corporation*, Cause No. 2020-DCV-1386, filed in the 327th Judicial District Court of El Paso County, Texas (the “State Court Action”).

Defendant removes this case on the ground of the Court’s original diversity jurisdiction of civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different States, 28 U.S.C. §§ 1332(a)(1), 1441(a), and on the grounds of federal question jurisdiction, 28 U.S.C. § 1331, and states as follows:

1. Plaintiff filed the State Court Action on April 23, 2020. Plaintiff served Defendant with citation and a copy of Plaintiff’s Original Petition (the “Petition”) on May 5, 2020, so this removal is timely. *See* 28 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999).

2. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders in the State Court Action have been indexed and are attached to this Notice of Removal as shown below:

Exhibit A An index of documents filed in the State Court Action and a copy of each document filed in the State Court Action.

Exhibit B A copy of the docket sheet in the State Court Action.

3. Plaintiff in the State Court Action avers that she resides in the State of Ohio. *See* Petition ¶ 3. On information and belief, Defendant asserts that Plaintiff was at the time of filing of the Petition in the State Court Action, and is now, a citizen of the State of Ohio. Defendant was at the time of filing of the Petition, and is now, a corporation organized and chartered under the laws of the State of Maryland with its principal place of business in Bethesda, Maryland. Thus, Defendant is a citizen of the State of Maryland and there is complete diversity of citizenship between Plaintiff and Defendant. 28 U.S.C. §§ 1332(c)(1), 1441(b).

4. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiff's Petition in the State Court Action alleges Defendant violated Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), and Chapter 21 of the Texas Labor Code. *See* Petition ¶ 5. Plaintiff seeks lost wages, back pay, front pay, lost benefits, compensatory damages, punitive damages, and attorneys' fees. *See* Petition ¶ Prayer for Relief. Based on Plaintiff's allegations and request for damages, it is facially apparent that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995).

5. Accordingly, this case is one over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) and is one that may be removed to this Court pursuant to 28 U.S.C. § 1441(a) and (b) inasmuch as this is a civil action brought in a state court over which this Court has original jurisdiction, in which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and there is complete diversity of citizenship between the parties.

6. In addition, Plaintiff expressly asserts a claim in the Petition under Title VII. *See* Petition ¶ 5. This claim gives this Court original jurisdiction over this cause under 28 U.S.C. § 1331, because the Title VII claim arises under the Constitution, laws, or treaties of the United States and thus presents a federal question.

7. Any state-law claims asserted in the Petition are removed as part of the case as a whole and may be removed and retained by the Court pursuant to the Court's supplemental jurisdiction. 28 U.S.C. § 1367; *see City of Chicago v. International College of Surgeons*, 118 S. Ct. 523, 529-30 (1997).

8. The factual allegations made in this pleading will be supported by affidavit or other summary-judgment-type evidence should the Court so request. *See, e.g., Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1336 (5th Cir. 1995) (facts supporting removal ordinarily should be set out in the removal petition and the Court can later require summary-judgment-type evidence should questions about jurisdiction remain); *Burden v. General Dynamics Corp.*, 60 F.3d 213, 217 (5th Cir. 1995).

9. This action may be removed to the United States District Court for the Western District of Texas, El Paso Division, because the action is pending in El Paso County, Texas, which is within the El Paso Division. *See* 28 U.S.C. §§ 124(d)(3), 1446(a).

10. Defendant will give written notice of the filing of this Notice to Plaintiff and will file a copy of this Notice with the Clerk of the state court pursuant to 28 U.S.C. § 1446(d).

11. Defendant therefore removes the State Court Action to this Court and requests that the Court issue any orders necessary to stay proceedings in the State Court Action and assume jurisdiction over this action for all purposes.

Dated: June 1, 2020.

Respectfully submitted,

/s/Anthony J. Campiti

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ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served on Plaintiffs' counsel of record by Email this 1st day of June 2020, on all counsel of record as listed below:

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/s/Micah R. Prude

Micah R. Prude

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